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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/966,309

09/28/2001

Dirk Kranendonk

25098A

5049

22889

7590

06/16/2008

OWENS CORNING  
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EXAMINER

TORRES VELAZQUEZ, NORCA LIZ

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

06/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/966,309	<b>Applicant(s)</b> KRANENDONK, DIRK	
	<b>Examiner</b> Norca L. Torres-Velazquez	<b>Art Unit</b> 1794	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 04 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1-13 and 22-40.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
 13. ☒ Other: See Continuation Sheet.

/Norca L. Torres-Velazquez/  
 Primary Examiner, Art Unit 1794

Continuation of 11. does NOT place the application in condition for allowance because: o The Examiner maintains herein the rejections of claims 1, 8 and 30 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As previously stated, the language indicating that the porosity of the wall covering is reduced significantly is indefinite because the claim fails to establish to what is the reduced porosity compared to... it is not clear if Applicant is trying to refer to a reduction of the porosity of the non-woven fiber tissue or mat instead? The claim as written indicates that the thermoplastic polymer coating reduces significantly the porosity of the wall covering, it is not clear if Applicants are trying to indicate that by providing a thermoplastic polymer coating to a nonwoven fiber tissue or mat, the final product (the wall covering) would have a reduced porosity in comparison to a wall covering that do not have the claimed coating? It is noted that without any parameter that would allow one of ordinary skill in the art to determine what is the porosity of the claimed material, the claimed "reduced porosity" is indefinite. With regards to claims 8 and 30, it is noted that Applicant has not provided copy of procedure used to measure the water vapor transmission rate by the DIN Standard 52615.

With regards to arguments over the Jackson reference, the Examiner maintains the position stated in the previous office action in which it gives the broadest reasonable interpretation to the claims since the Specification does not preclude the type of microscopic pores taught by JACKSON. In fact, the present invention teaches using fillers to produce micropores.

As stated before by the Examiner, the Jackson reference provides a breathable or moisture permeable wall covering having a porous polymeric ply, which is fused to and supported by a nonwoven substrate ply. The porous polymeric ply as a smooth, continuous aesthetically pleasing appearance, while simultaneously achieving a moisture vapor permeability which prevents moisture from being trapped on or within a wall to which the wall covering is applied. More specifically, the porous polymeric ply has a substantially macroscopic-continuity wherein a plurality or multiplicity of miniature or microscopic discontinuities or holes are randomly distributed. (Col. 2, lines 19-32) The Examiner equates such description as providing a continuous layer. It is noted that the present invention does not preclude having micropores, which are necessary in order to provide a material with gas permeability. Nor the specification indicates that the polymeric coating is a monolithic film.

While Figure 2 of the present application does not show "holes" or "pores", it is noted that the presence of certain porosity is recognized and desirable by the disclosure of the present application. (Refer to [0033]) The rejections over JACKSON are maintained herein since the microscopic discontinuities of the polymeric material of the reference do not affect the continuity or smoothness of its outer or exposed surface when looked by the unaided eye. (Jackson, Col. 2, lines 32-34) Therefore, "visible irregularities" would not be created when roller painted since the discontinuities in the polymeric material are microscopic and are not visible by the unaided eye.

Therefore, the rejections over the prior art of record as stated in the Final Rejection of 004/10/2008 are maintained herein.

Continuation of 13. Other: With regards to remark regarding the SB-08B of 2/23/07, it is noted that the NPL was properly considered and at the bottom of the form the Examiner indicated that all references were considered except where lined through. This was properly initialed and signed by the Examiner.